

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**BILLY MILLER d/b/a PINEY WOODS
LUMBER CO.,**

**Plaintiff, Counter-Defendant, and
Third-Party Plaintiff,**

v.

DAIRYMAN’S SUPPLY CO., INC.,

Defendant and Counter-Plaintiff,

v.

**RANDY DRIVER, and WILLIAM CARTER &
DALE HIX, Individually and d/b/a
PERFORMANCE AUTO SALES,**

Third-Party Defendants.

**Case No. 3:10-cv-0819
Judge Trauger**

ORDER

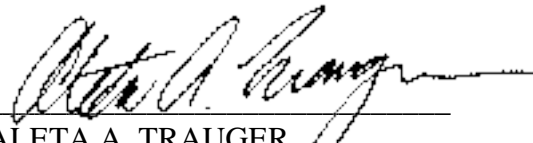
For the reasons set forth in the accompanying Memorandum, the court hereby finds as follows:

- Dairyman’s Motion for Summary Judgment (Docket No. 52) is **GRANTED IN PART and DENIED IN PART**. Dairyman’s request to strike Carter & Hix’s Response to Dairyman’s Motion for Summary Judgment (Docket No. 82, pp. 2-4) is **DENIED**.
- Carter & Hix’s Motion for Summary Judgment (Docket No. 74) is **GRANTED IN PART and DENIED IN PART**.
- Miller’s Motion for Summary Judgment (Docket No. 77) is **GRANTED IN PART and DENIED IN PART**.
- Miller’s third-party claim against Carter & Hix for unjust enrichment is hereby **DISMISSED WITH PREJUDICE**. Miller’s third-party claims against Carter & Hix for breach of contract, promissory estoppel, and equitable estoppel will remain for trial.

- Dairyman's TCPA claim is **DISMISSED WITH PREJUDICE**. Dairyman's request for summary judgment in its favor on its breach of contract claim is **GRANTED** as to liability, subject to resolution of a dispute concerning the appropriate measure of its damages.
- Miller's third-party claim against Driver will remain for trial.

It is so **ORDERED**.

Enter this 12th day of June 2012.



ALETA A. TRAUGER
United States District Judge